

AFC ENTERPRISES INC

FORM 8-K

(Current report filing)

Filed 09/27/07 for the Period Ending 09/26/07

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| Address | 5555 GLENRIDGE CONNECTOR, NE, SUITE 300 ATLANTA, GA 30342 |
| Telephone | 4044594450 |
| CIK | 0001041379 |
| Symbol | AFCE |
| SIC Code | 5812 - Eating Places |
| Industry | Restaurants |
| Sector | Services |
| Fiscal Year | 12/30 |

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported):
September 26, 2007

AFC Enterprises, Inc.

(Exact name of registrant as specified in its charter)

Minnesota
(State or other
jurisdiction
of incorporation)

000-32369
(Commission
File Number)

58-2016606
(IRS Employer
Identification Number)

5555 Glenridge Connector, NE, Suite 300, Atlanta, Georgia
(Address of principal executive offices)

30342
(Zip Code)

Registrant's telephone number, including area code: (404) 459-4450

Not applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 8.01. Other Events.

On September 26, 2007, AFC Enterprises, Inc. (the “Company”) announced that a federal court had ruled in the Company’s favor in a lawsuit against the Company’s former insurance carrier that provided liability coverage for its directors and officers.

A copy of the Company’s press release is attached to this Current Report on Form 8-K as Exhibit 99.1 and is hereby incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

99.1 Press Release dated September 26, 2007.

Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: September 27, 2007

AFC ENTERPRISES, INC.

By: /s/ Harold M. Cohen

Harold M. Cohen

Senior Vice President, General Counsel and
Corporate Secretary

**NEWS RELEASE****AFC Enterprises Announces Favorable Decision in Directors and Officers Insurance Lawsuit**

ATLANTA, Sept. 26 AFC Enterprises, Inc. (Nasdaq: AFCE) today announced that a federal court in Atlanta has returned a favorable decision in a lawsuit against its former insurance carrier that provided liability coverage for its directors and officers. The lawsuit against Executive Risk Indemnity, Inc. involved the carrier's attempt to rescind the directors and officers liability policy for the 2003 policy year in which AFC announced a restatement of its prior years' financial statements. The company was awarded \$20 million in damages representing the full limits of liability of the policy and approximately \$4 million in pre-judgment interest. A portion of the award will be paid to the plaintiff class as part of the settlement of the shareholder litigation arising after the announcement of the financial restatement in 2003 as previously disclosed by AFC in its filings with the Securities and Exchange Commission. After payment of settlement amounts to the plaintiff class, legal expenses and fees, the company expects to receive net proceeds of \$9-\$10 million. However, the decision may be appealed, and therefore the timing of the company's receipt of damages, if any, is uncertain.

Given the inherent risks and uncertainties in litigation, the company has not recognized any income related to this matter at this time.

Corporate Profile

AFC Enterprises, Inc. is the franchisor and operator of Popeyes(R) Chicken & Biscuits, the world's second-largest quick-service chicken concept based on number of units. As of July 15, 2007, Popeyes had 1,878 restaurants in the United States, Puerto Rico, Guam and 23 foreign countries. AFC has a primary objective to be the world's Franchisor of Choice(R) by offering investment opportunities in its Popeyes Chicken & Biscuits brand and providing exceptional franchisee support systems and services. AFC Enterprises can be found at www.afce.com.

AFC Contact Information**Investor inquiries:**

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Forward-Looking Statement: Certain statements in this release contain "forward-looking

statements” within the meaning of the federal securities laws. Statements regarding future events and developments and our future performance, as well as management’s current expectations, beliefs, plans, estimates or projections relating to the future, are forward-looking statements within the meaning of these laws. These forward-looking statements are subject to a number of risks and uncertainties. Examples of such statements in this press release include discussions regarding the amount and likelihood that damages awarded in the recent decision relating to AFC’s lawsuit against its former insurance carrier of directors and officer’s liability coverage will be paid and the legal expenses and legal fees that will ultimately be incurred. Among the important factors that could cause actual results to differ materially from those indicated by such forward- looking state ments are: risks and uncertainties inherent in litigation, competition from other restaurant concepts and food retailers, the loss of franchisees and other business partners, labor shortages or increased labor costs, increased costs of our principal food products, changes in consumer preferences and demographic trends, as well as concerns about health or food quality, instances of avian flu or other food- borne illnesses, the need to continue to improve our internal controls, adverse effects on operations from Hurricane Katrina, the Company’s ability to recover related losses from its insurers and the economic impact on consumer spending in markets affected by Hurricane Katrina, the loss of senior management and the inability to attract and retain additional qualified management personnel, limitations on our business under our 2005 Credit Facility, failure of our franchisees, a decline in the number of franchised units, a decline in our ability to franchise new units, slowed expansion into new markets, unexpected and adverse fluctuations in quarterly results, increased government regulation, adverse effects of regulatory actions arising in connection with the restatement of our previously issued financial statements, effects of increased gasoline prices, general economic conditions, supply and delivery shortages or interruptions, currency, economic and political factors that affect our international operations, inadequate protection of our intellectual property and liabilities for environmental contamination and the other risk factors detailed in our 2006 Annual Report on Form 10-K and other documents we file with the Securities and Exchange Commission. Therefore, you should not place undue reliance on any forward-looking statements.